

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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ALBERT FLETCHER,

Plaintiff,

-against-

THE CITY OF NEW YORK, DETECTIVE SHANNON BROOKS, Shield No. 3463, UNDERCOVER POLICE OFFICER #C0016, and POLICE OFFICERS JOHN DOES #1-10 (names and number of whom are unknown at present), and other unidentified members of the New York City Police Department,

**SUMMONS**

Index No.:

The Basis of Venue is:  
Location of Incident

Plaintiff designates New York County as the place of trial.

Defendants.

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**To the above named Defendants:**

**You are hereby summoned** to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

DATED: New York, New York  
May 22, 2014

Yours, etc.

  
JACOBS & HAZAN, LLP.  
STUART E. JACOBS, ESQ.  
Attorney for Plaintiff  
11 Park Place, 10<sup>th</sup> Floor  
New York, New York 10007  
(212) 577-2690

TO: City of New York, Corporation Counsel, 100 Church Street, NY, NY 10007  
Detective Shannon Brooks, Shield No. 3463, Narcotic Boro Manhattan North, 1 Police  
Plaza, Room 1100, NY, NY  
UNDERCOVER POLICE OFFICER # C0016, Narcotic Boro Manhattan North, 1 Police  
Plaza, Room 1100, NY, NY

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ALBERT FLETCHER,

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THE CITY OF NEW YORK, DETECTIVE SHANNON BROOKS, Shield No. 3463, UNDERCOVER POLICE OFFICER #C0016, and POLICE OFFICERS JOHN DOES #1-10 (names and number of whom are unknown at present), and other unidentified members of the New York City Police Department,

Defendants.

**INDEX NO.:**

VERIFIED COMPLAINT

**JURY TRIAL DEMANDED**

X

Plaintiff, ALBERT FLETCHER, by his attorneys, Jacobs & Hazan, LLP, as and for his Complaint herein, alleges upon information and belief as follows:

**PRELIMINARY STATEMENT**

1. This is a civil rights action to recover money damages arising out of defendants' violation of plaintiff's rights as secured by the Civil Rights Act, 42 U.S.C. Section 1983, and of rights secured by the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution, and the common law and the laws of the State of New York. On May 25, 2011, at approximately 6:00 a.m., plaintiff, Albert Fletcher, while lawfully inside of his apartment building located at 117 West 144<sup>th</sup> Street, New York, New York, was subject to an unlawful search, detention, false imprisonment false arrest, and malicious prosecution by the defendant New York City police officers. Thereafter, while at the police Precinct, plaintiff was subject to an unconstitutional strip search by the defendant New York City police officers. Plaintiff was deprived of his constitutional and common law rights when the individual defendants unlawfully searched, confined, caused the unjustifiable arrest of, and unlawfully strip searched plaintiff in violation of the Fourth, Fifth and Fourteenth Amendments to the United States Constitution.

**PARTIES**

2. Plaintiff Albert Fletcher is a resident of the State of New York.

3. Defendant Detective Shannon Brooks, Shield No. 3463, is and was at all times relevant herein an officer, employee, and agent of the New York City Police Department.

4. At the time of the subject incident, Detective Shannon Brooks, Shield No. 3463 was assigned to Narcotic Boro Manhattan North.

5. Defendant Detective Shannon Brooks, Shield No. 3463 is being sued in her individual and official capacity.

6. Defendant Undercover Police Officer #C0016, is and was at all times relevant herein an officer, employee, and agent of the New York City Police Department.

7. At the time of the subject incident, Undercover Police Officer #C0016 was assigned to Narcotic Boro Manhattan North.

8. Defendant Undercover Police Officer #C0016 is being sued in her individual and official capacity.

9. New York City Police Officers John Does #1-10 are and were at all times relevant herein officers, employees, and agents of the New York City Police Department.

10. Police Officers John Does #1-10 are being sued in their individual and official capacities.

11. At all times relevant herein, the individual defendants were acting under color of state law in the course and scope of their duties and functions as agents, servants, employees and officers of the New York City Police Department, and otherwise performed and engaged in conduct incidental to the performance of their lawful functions in the course of their duties. They were acting for and on behalf of the New York City Police Department at all times relevant herein, with the power and authority vested in them as officers, agents and employees of the New York City Police Department and incidental to the lawful pursuit of their duties as officers, employees and agents of the New York City Police Department.

12. At all times relevant hereto, defendant CITY OF NEW YORK, operated, maintained managed, supervised and controlled the New York City Police Department ("NYPD") as part of and in conjunction with its municipal function.

13. Defendant City of New York is a municipal entity created and authorized under the laws of the State of New York. It is authorized by law to maintain a police department which acts as its agent in the area of law enforcement and for which it is ultimately responsible. The defendant City of New York assumes the risks incidental to the maintenance of a police force and the employment of police officers as said risks attach to the public consumers of the services provided by the New York City Police Department.

## **STATEMENT OF FACTS**

14. On May 25, 2011, at approximately 6:00 a.m., plaintiff was lawfully inside of an apartment located at 117 West 144 Street , New York, New York.

15. On May 25, 2011, at approximately 6:00 a.m., plaintiff heard loud noises coming from the hallway outside of the apartment.

16. In response to hearing loud noises in the hallway, plaintiff stepped outside into the hallway to see where the noise was coming from and was immediately grabbed by the defendant police officers.

17. Plaintiff was immediately handcuffed while he was in the hallway without legal justification or probable cause.

18. At no time were any guns, drugs, or contraband found on plaintiff's person, or in plaintiff's possession, custody, or control.

19. At no time did plaintiff violate any law, commit any crime or violate the law in any way.

20. Defendants did not have an objective factual basis to believe plaintiff committed a crime or violated the law in any way.

21. Nevertheless, plaintiff was falsely arrested by the defendants and transported to the a police precinct for arrest processing.

22. Upon arrival at the Precinct, plaintiff was placed in a holding cell by the defendants.

23. Defendant Police Officers then unlawfully stripped searched plaintiff in a holding cell without reasonable suspicion or probable cause.

24. Specifically, plaintiff was forced to take off all of his clothes and shake each piece of clothing out.

25. Plaintiff was then ordered to turn around, and with his back facing the defendant police officers, plaintiff was forced to bend over and spread his buttocks.

26. Plaintiff was then ordered to face the defendant police officers and was forced to lift his genitals.

27. At no time did the defendant police officers recover any drugs, contraband or other illegal paraphernalia from plaintiff.

28. While plaintiff was at the precinct, the defendant police officers falsely stated to the Manhattan District Attorney's Office that plaintiff committed a crime.

29. As a result of the false information stated to the Manhattan District Attorney's Office by the defendant police officers, a prosecution was commenced against plaintiff.

30. At approximately 1 p.m., plaintiff was transported to Manhattan Central Booking.

31. Thereafter, on or about May 26, 2011, after approximately 36 hours in police custody, plaintiff was arraigned in Manhattan Criminal Court and released on his own recognizance.

32. Plaintiff was forced to appear in Court on several occasions, and then on September 26, 2011 all charges against plaintiff were dismissed.

33. The other individually named defendant police officers that were present at the scene of the incident failed to intervene to prevent the unlawful search, detention, and prosecution of plaintiff.

34. Some of the police officer defendants observed the violation of plaintiff's rights under the Constitution of the United States and New York State Law and did nothing to prevent the unjustifiable search, seizure, strip search, and prosecution of plaintiff.

35. The unlawful search, false arrest, false imprisonment, strip search, and malicious prosecution of plaintiff by the individually named defendants caused plaintiff to sustain physical, psychological and emotional trauma.

36. There is a policy, practice or custom within the New York City Police Department, wherein New York City Police Officers illegally strip search individuals without a specific, articulable factual basis supporting a reasonable suspicion or probable cause to believe the individual secreted contraband, evidence, or has a weapon inside a body cavity as required by Sarnicola v. The County of Westchester, 01 Civ. 6078, 2002 U.S. Dist. LEXIS 20305 at \*28-29 (S.D.N.Y. October 23, 2002).

37. New York City Police Officers have testified under oath that it is the policy, practice, and custom of the New York City Police Department to conduct strip searches of every person that is arrested. United States v. Gonzalez, 08 Cr 363 (BSJ), 2009 U.S. Dist. LEXIS 59742 at \*7 (S.D.N.Y. March 2, 2009).

38. In fact, the Honorable Barbara S. Jones presiding in the Southern District of New York held that "there is a '[NYPD] departmental policy of strip searching all arrestees without making any assessment of particularized circumstances.'" Gonzalez, 2009 U.S. Dist. LEXIS 59742 at \*20 (S.D.N.Y. March 2, 2009).

39. As a result of defendant City of New York and the New York City Police Department's deliberate indifference about the fact that New York City Police Officers routinely conduct strip searches without reasonable suspicion and/or probable cause, there is a pattern, policy, custom or practice of New York City Police Officers strip searching individuals without a factual basis supporting a legal reason to do so.

## **FIRST CAUSE OF ACTION**

### **Violation of Plaintiff's Fourth Amendment and Fourteenth Amendment Rights**

40. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 39 with the same force and effect as if more fully set forth at length herein.

41. The individually named police officer defendants while acting in concert and within the scope of their authority, caused plaintiff to be unlawfully seized, unlawfully searched, and falsely arrested, imprisoned, and maliciously prosecuted without probable cause in violation of plaintiff's right to be free of an unreasonable seizure under the Fourth Amendment of the Constitution of the United States and to be free of a deprivation of liberty under the Fourteenth Amendment to the Constitution of the United States.

42. As a direct and proximate result of such acts, defendants deprived plaintiff of his rights under the laws of the United States Constitution the State of New York.

43. As a result of the aforementioned conduct of defendants, plaintiff sustained injuries, including but not limited to emotional and psychological injuries

## **SECOND CAUSE OF ACTION**

### **False Arrest and False Imprisonment**

44. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 43 with the same force and effect as if more fully set forth at length herein.

45. The acts and conduct of the defendants constitute false arrest and false imprisonment under the laws of the United States Constitution State of New York. Defendants intended to confine plaintiff and, in fact, confined plaintiff, and plaintiff was conscious of the confinement. In addition, plaintiff did not consent to the confinement and the confinement was not otherwise privileged.

46. As a direct and proximate result of such acts, defendants deprived plaintiff of his rights under the laws of the United States Constitution and the State of New York.

47. As a result of the aforementioned conduct of defendants, plaintiff sustained injuries, including but not limited to emotional and psychological injuries

### **THIRD CAUSE OF ACTION**

#### **Unlawful Search**

48. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 47 with the same force and effect as if more fully set forth at length herein.

49. The illegal approach, pursuit, stop and search employed by defendants herein terminated plaintiff's freedom of movement through means intentionally applied.

50. Defendants lacked probable cause to search plaintiff.

51. As a direct and proximate result of such acts, defendants deprived plaintiff of his rights under the laws of the State of New York.

52. As a result of the aforementioned conduct of defendants, plaintiff sustained injuries, including but not limited to emotional and psychological injuries.

### **FOURTH CAUSE OF ACTION**

#### **Failure to Intervene**

53. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 52 with the same force and effect as if more fully set forth at length herein.

54. Defendants had an affirmative duty to intervene on behalf of plaintiff, whose constitutional rights were being violated in their presence by other officers.

55. Defendants failed to intervene to prevent the unlawful conduct described herein.

56. As a result of the foregoing, plaintiff's liberty was restricted for an extended period of time, he was put in fear of his safety, and he was humiliated and subject to other physical constraints.

## **FIFTH CAUSE OF ACTION**

### **Unlawful Strip Search**

57. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 56 with the same force and effect as if more fully set forth at length herein.

58. Plaintiff was searched by defendants without an individualized reasonable suspicion that plaintiff was concealing weapons or other contraband based on a crime charged, the particular characteristics of the arrestee, and/or the circumstances of the arrest.

59. As a result of the foregoing, plaintiff's Constitutional rights were deprived and he sustained great emotional injuries.

## **SIXTH CAUSE OF ACTION**

### **Municipal Liability under 42 U.S.C. § 1983**

60. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 59 with the same force and effect as if more fully set forth at length herein.

61. Defendants, collectively and individually, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of defendant City of New York, which is forbidden by the Constitution of the United States.

62. The aforementioned customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department included, but were not limited to, illegally strip searching individuals without a specific, articulable factual basis supporting a reasonable suspicion and probable cause to believe the individual secreted contraband, evidence, or has a weapon inside a body cavity as required by Sarnicola v. The County of Westchester, 01 Civ. 6078, 2002 U.S. Dist. LEXIS 20305 at \*28-29 (S.D.N.Y. October 23, 2002), as well as inadequate screening, hiring, retaining, training, and supervising its employees with respect to this issue.

63. The aforementioned customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department were the moving force behind the violation of plaintiff's rights as described herein. As a result of the failure of defendant City of New York and the New York City Police Department to properly recruit, screen, train, discipline, and supervise its officers, including the individual defendants, defendant City of New York has tacitly authorized, ratified, and has been deliberately indifferent to, the acts and conduct complained of herein.

64. The foregoing customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department were the moving force behind the Constitutional violations suffered by plaintiff as alleged herein.

65. The foregoing customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department were the direct and proximate cause of the constitutional violations suffered by plaintiff as alleged herein.

66. As a result of the foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department, plaintiff was unlawfully strip searched.

67. Defendants collectively and individually, while acting under color of state law were directly and actively involved in violating plaintiff's constitutional rights.

## **SEVENTH CAUSE OF ACTION**

### **Malicious Prosecution**

68. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 67 with the same force and effect as if more fully set forth at length herein.

69. The acts and conduct of the defendants constitute malicious prosecution under the laws of the State of New York and New York State common law.

70. Defendants commenced and continued a criminal proceeding against plaintiff.

71. There was actual malice and an absence of probable cause for the criminal proceeding against plaintiff and for each of the charges for which he was prosecuted.

72. The prosecution and criminal proceedings terminated favorably to plaintiff on June 15, 2011.

73. The individually named police officers defendants were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.

74. The City, as the employer of the police officer defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

## **JURY DEMAND**

75. Plaintiff hereby demands trial by jury of all issues properly triable thereby.

## **PRAYER FOR RELIEF**

**WHEREFORE**, plaintiff Albert Fletcher demands judgment against the defendants on each cause of action in amounts to be determined upon the trial of this action which exceeds the jurisdiction of lower courts, inclusive of punitive damages and attorneys fees inclusive of costs and disbursements of this action, interest and such other relief as is appropriate under the law. That the plaintiff recover the cost of the suit herein, including reasonable attorneys fees pursuant to 42 U.S.C. § 1988.

Dated: New York, New York  
May 22, 2014

By:

STUART E. JACOBS  
DAVID M. HAZAN  
JACOBS & HAZAN, LLP  
Attorneys for Plaintiff  
11 Park Place, 10<sup>th</sup> Floor  
New York, NY 10007  
(212) 577-2690

TO: TO: City of New York, Corporation Counsel, 100 Church Street, NY, NY 10007  
Detective Shannon Brooks, Shield No. 3463, Narcotic Boro Manhattan North, 1 Police  
Plaza, Room 1100, NY, NY  
UNDERCOVER POLICE OFFICER # C0016, Narcotic Boro Manhattan North, 1 Police  
Plaza, Room 1100, NY, NY

**ATTORNEY'S VERIFICATION**

**STUART E. JACOBS**, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am a partner of the law firm of **JACOBS & HAZAN, LLP**, I have read the annexed **VERIFIED COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true.

DATED: New York, New York  
May 22, 2014

  
STUART E. JACOBS